IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GARDEN CITY BOXING, INC.   )
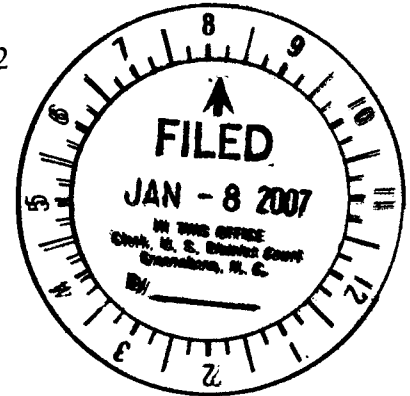   )
   Plaintiff,   )
)
   v.   )   1:05CV1122
)
WZ INC. d/b/a CHUMLEY'S and   )
MARK E. ZERFOSS and WILLIAM   )
M. WOMBLE, individually,   )
)
   Defendants.   )

FILED
JAN - 8 2007

DEFAULT JUDGMENT

This matter is before the Court on Plaintiff's Motion for Default Judgment [Document #12] against Defendant Mark E. Zerfoss pursuant to Federal Rule of Civil Procedure 55. Defendant Zerfoss has failed to plead or otherwise defend in this action, and an entry of default was entered against him on July 19, 2006. Defendant Zerfoss has not responded to Plaintiff's Motion for Default Judgment.
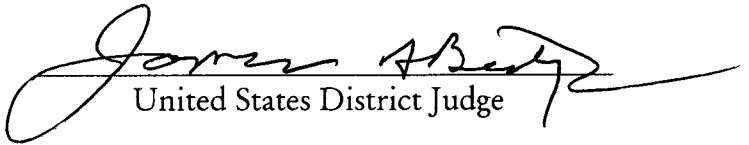
Having considered Plaintiff's Motion, the Court finds that Defendant Zerfoss has failed to plead and is in default, that he is not an infant or incompetent person, that this Court has jurisdiction with respect to Defendant Zerfoss and to the subject matter of Plaintiffs' Complaint, and that Defendant Zerfoss is otherwise subject to default as provided by the Federal Rules of Civil Procedure.

With respect to damages, the Court will award statutory damages pursuant to 47 U.S.C. § 605(e)(3)(C) as requested by Plaintiff. However, the Court finds that the amount of damages

requested by Plaintiff, including statutory damages of $110,000.00, is greater than necessary to accomplish the goals of the statute and would not be just under the circumstances of this case. Instead, pursuant to 47 U.S.C. § 605(e)(3)(C)(i)(II), the Court will award statutory damages of $5,000.00 as to Count I, and $10,000.00 as to Count II. In addition, the Court will also award reasonable attorney's fees and costs as allowed by statute.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff recover from Defendant Mark E. Zerfoss statutory damages of $15,000.00, plus costs in this action of $587.00 and reasonable attorney's fees in the amount of $1,120.00, for a total award of $16,707.00.

This, the 8th day of January, 2007.

United States District Judge